

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 14878 of 2004

Between:

V.Bhoomi Reddy, S/o Narayan Reddy,
R/o 9-4-120, Moinpura, Siddipet, Medak District

..... PETITIONER

AND

1. APSRTC, Medak Region, Sangareddy, Medak District rep.by its Regional Manager.
2. APSRTC, Medak Division, Sangareddy, Medak District rep.by its Divisional Manager.
3. APSRTC, Bus Depot, Siddipet, Medak District rep.by its Depot Manager.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of Certiorari, quash the impugned proceeding No.PA/24(24)/2001-DVM/SRD, dated 29-09-2001 as confirmed by the 1st respondent vide proceeding No.PA/675(24)/2003-RM:MR, dated 03-02-2004 in so far as treating the removal period as not on duty, reinstatement afresh, and without back wages as arbitrary, unjust and in violation of principles of natural justice and consequently direct the respondents to treatment the reinstatement with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Standing Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following at the admission stage:

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

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ORDER:

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The petitioner is working as a driver in the respondents-corporation. He joined in the service of the Corporation in the year 1990 and his services were regularized with effect from 31-03-1991. On the ground that the petitioner caused an accident on 30-06-2000 at Ranganadhampally, charges were framed against him in a regular enquiry and he was imposed a punishment of removal from service through the order of the 3rd respondent dated 29-09-2001.

2. The petitioner preferred an appeal before the 2nd respondent and the 2nd respondent was pleased to set aside the order of removal through the order dated 29-09-2001 and directed reinstatement of the petitioner into service with immediate effect. The 2nd respondent further mentioned in that order that the petitioner shall be treated as a fresh driver duly putting him under minimum of basic apart from treating the out of service period as not on duty. The petitioner preferred a review before the 1st respondent but the 1st respondent passed an order on 03-02-2004, confirming the order of respondent Nos.2 and 3.

Therefore, the petitioner approached this Court seeking a writ of certiorari by quashing the impugned proceedings dated 29-09-2001 as confirmed by the 1st respondent through the proceedings dated 03-02-2004.

3. The learned counsel for the petitioner submitted that the wording used by the 2nd respondent as 'reinstatement' and the further direction that the period from the date of removal till the date of reinstatement shall be treated as not on duty is a clear indication that the concerned authority was intending to treat it as a continuity of service but by mistake it was mentioned as a fresh appointment. The learned counsel for the petitioner drew the attention of this Court through the Judgment of the Division Bench of this Court in ***DEPOT MANAGER, A.P.S.R.T.C., KURNOOL DEPOT. v. S.S.REDDY JAMAL REDDY*** wherein the Division Bench held as follows:

"It is now a well-settled principle of law that a judgment cannot be read as a statute and must be read reasonably and in its entirety. The word 'reinstatement' carries with it a definite meaning viz., the workman shall be deemed to be continuing in service without any break whatsoever. The logical corollary of it would be that he would continue in service as if his services have never been terminated. The Court while granting discretionary relief may or may not grant back wages although, normally, the rule is when a direction for reinstatement is given back wages is also directed therein. Thus, the direction for reinstatement of the workman must be read in the aforementioned context that except the back wages and attendant benefits, he was entitled to all other benefits to which he became entitled to by way of his reinstatement without break in service."

4. The learned counsel for the petitioner also placed a decision in an unreported judgment of a Division Bench of this Court in ***VICE CHAIRMAN & MANAGING DIRECTOR, A.P.S.R.T.C. MUSHIRABAD, HYDERABAD v. N.RAGAREDDI*** covered by Writ Appeal No.395 of 1996, while confirming the judgment of the learned Single Judge of this Court in W.P.No.11182 of 1992, held as follows:

"When a certain person is reinstated with back wages or without back wages, he has to be above his next junior and placed in the time scale of pay with all admissible emoluments including allowances at the level of fitment after reinstatement."

5. The learned counsel for the petitioner, therefore, submitted that when the 2nd respondent used the word 'reinstatement' it shall mean as taking him into the service and not a fresh appointment. In a judgment rendered by this Court in W.P.No.11239 of 2004, following the judgment of the Division Bench in W.A.No.395 of 1996, dated 19-06-1996, it was held that in view of the wording used by the 2nd respondent as 'reinstatement' the period from the date of removal to the date of 'reinstatement' shall be treated as on duty. The learned counsel for the petitioner by taking the aid of the above decisions requested this Court to hold that the reinstatement made by the 2nd respondent is not a fresh appointment, but, it is nothing but reinstatement of the petitioner into service.

6. The learned counsel for the respondents opposed the submissions made by the learned counsel for the petitioner and submitted that it shall be treated only as a fresh appointment as on the simple ground of the 3rd respondent using the word 'reinstatement' shall not be given the liberal interpretation and it shall be restricted by taking into consideration the view of the authority in totality without isolating the word 'reinstatement'.

7. But in the light of the judgments of a Division Bench and a Single Bench of this Court and in view of the circumstances explained by the counsel for the petitioner, the order of the respondent Nos.2 and 3 is directed to be modified as follows:

The petitioner is reinstated into service without back wages. The period from the date of removal from service till the date of reinstatement shall never treated as continuity of service but whatever service he rendered prior to the date of removal shall be added to his service for the purpose of extending the benefits to which the petitioner is entitled according to the rules.

8. The writ petition is accordingly allowed. No order as to costs.

September 1,2004

KVR

To

1. APSRTC, Medak Region, Sangareddy, Medak District rep.by its Regional Manager.
2. APSRTC, Medak Division, Sangareddy, Medak District rep.by its Divisional Manager.
3. APSRTC, Bus Depot, Siddipet, Medak District rep.by its Depot Manager.
4. Two C.D.Copies.